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JUN 23 2006

OFFICE OF PETITIONS

In re Patent No. 6,891,032 :
Issued: May 10, 2005 :
Application No. 10/082,254 : DECISION REGARDING PTA
Filed: February 25, 2002 :
Atty. Dkt. No.: AMBI:035USC1 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)," filed July 1, 2005. This petition is being treated as timely filed under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The instant application issued as U.S. Pat. No. 6,891,032 on May 10, 2005 with a PTA of 0 days. The instant application for PTA was timely filed July 1, 2005. Applicants argue that the application should have been accorded a PTA of 169 days on the grounds that the submission of two miscellaneous letters (applicants' statements of the substance of interviews) did not constitute a failure by applicants to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that an adjustment of 207 days under 37 CFR 1.702(a)(1) was attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began April 26, 2003, the day after the date that is 14 months from the date upon which the application was filed, and ended November 18, 2003, the date the non-final Office action was mailed.

A further adjustment of 36 days in accordance with 37 CFR 1.702(a)(2) was attributed to the Office. The adjustment began June 24, 2004, the day after the date that is four months after the date a response to the non-final Office action was filed, and ended July 29, 2004, the date the Notice of Allowance was mailed.

A further adjustment of 70 days in accordance with 37 CFR 1.702(a)(4) was attributed to the Office. The adjustment began

March 2, 2005, the day after the date that is four months after the date that the issue fee payment was received, and ended May 10, 2005, the date of issuance of the patent.

Thus, at the time of issuance, an adjustment of 313 days could be attributed to the Office.

The adjustment of 313 days is reduced five days in accordance with 37 CFR 1.704(b). The adjustment began March 19, 2003, the day after the date that is three months after the date of mailing of non-final Office action, and ended February 23, 2004, the date a response was received.

The adjustment of 313 days is further reduced 136 days in accordance with 37 CFR 1.704(c)(8). The reduction began February 24, 2004, the date after the date the response to the non-final Office action was received, and ended July 8, 2004, the date of submission of the supplemental reply (an IDS).

The adjustment of 313 days is further reduced three days in accordance with 37 CFR 1.704(b). The adjustment began October 30, 2004, the date after the date that is three months after the date the Notice of Allowance was mailed, and ended November 1, 2004, the date of submission of issue fee payment.

The miscellaneous incoming letters submitted August 20, 2004 and March 2, 2005 were errantly deemed submissions within the meaning of 37 CFR 1.704(c)(10) which resulted in a reduction totaling 190 days. Applicants' statements on the substance of the interview summaries, which were invited by the examiner, are not deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704. Accordingly, these submissions should have been processed so that they were included as part of an interview summary or examiner's amendment and not a separate paper for PALM to flag in the patent term adjustment calculation.

Accordingly, the patent is entitled to an adjustment of 169 days, as argued by patentees.

The required application fee of \$200.00 has been charged to applicants' deposit account as authorized.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 133 days.

Telephone inquiries specific to this matter may be directed to
Petitions Attorney Alesia M. Brown at (571) 272-3202.

Karin Jerriter Keay A. Brown
Karin Jerriter Keay A. Brown
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,891,032 B2

DATED : May 10, 2005

INVENTOR(S) : Brown, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b)
by 0 days

Delete the phrase "by 0 days" and insert -- by 169 days--

Day : Thursday
Date: 6/22/2006

Time: 11:49:29


PALM INTRANET

PTA Calculations for Application: 10/082254			
Application Filing Date:	02/25/2002	PTO Delay (PTO):	313
Issue Date of Patent:	05/10/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	334
Post-Issue Petitions:	0	Total PTA (days):	169
PTO Delay Adjustment:	190		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
44	06/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	380		
43	06/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		190	
38.5	04/20/2005	PTA 36 MONTHS			
38	05/10/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	70		34
37	04/08/2005	RECEIPT INTO PUBS			
36	04/07/2005	DISPATCH TO FDC			
35	04/07/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
34	11/01/2004	ISSUE FEE PAYMENT VERIFIED		3	23
33	03/02/2005	MISCELLANEOUS INCOMING LETTER		70	29
32	08/20/2004	MISCELLANEOUS INCOMING LETTER		120	29
31	04/01/2005	RECEIPT INTO PUBS			
30	02/09/2005	WORKFLOW - QUERY REQUEST - FINISH			
29	02/01/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
28	11/29/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
27	11/01/2004	ISSUE FEE PAYMENT RECEIVED			
26	09/20/2004	WORKFLOW - QUERY REQUEST - BEGIN			
25	08/12/2004	RECEIPT INTO PUBS			
24	08/11/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
23	07/29/2004	MAIL NOTICE OF ALLOWANCE	36		13
22	07/29/2004	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
21	07/12/2004	ISSUE REVISION COMPLETED			
20	07/12/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

19	07/12/2004	NOTICE OF ALLOWABILITY			
18	07/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		136	13
17	07/08/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	07/09/2004	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
15	03/08/2004	IFW AMENDED CASE PROCESSING COMPLETE			
14	03/08/2004	DATE FORWARDED TO EXAMINER			
13	02/23/2004	RESPONSE AFTER NON-FINAL ACTION		5	11
12	02/23/2004	TERMINAL DISCLAIMER FILED			
11	11/18/2003	MAIL NON-FINAL REJECTION	207		-1
10	11/17/2003	NON-FINAL REJECTION			
9	11/01/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	06/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	02/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	02/25/2002	PRELIMINARY AMENDMENT			
5	09/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	03/26/2002	APPLICATION DISPATCHED FROM OIPE			
3	03/18/2002	APPLICATION IS NOW COMPLETE			
2	03/12/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/25/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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